

ESTTA Tracking number: **ESTTA453698**

Filing date: **01/30/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Novartis AG
Granted to Date of previous extension	01/29/2012
Address	CH 4002 Basel, SWITZERLAND
Attorney information	James D. Weinberger Fross Zelnick Lehrman & Zissu, P.C. 866 United Nations Plaza 6th Floor New York, NY 10017 UNITED STATES jweinberger@frosszelnick.com, agreenberg@frosszelnick.com Phone:(212) 813-5900

### Applicant Information

Application No	85261150	Publication date	08/02/2011
Opposition Filing Date	01/30/2012	Opposition Period Ends	01/29/2012
International Registration No.	NONE	International Registration Date	NONE
Applicant	Leo Pharma A/S Industriparken 55 DK-2750 Ballerup, DENMARK		

### Goods/Services Affected by Opposition

Class 005.


All goods and services in the class are opposed, namely: Pharmaceutical preparations for the treatment of skin disorders, skin infections and skin cancers; anticoagulants

### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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### Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	77850568	Application Date	10/16/2009
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	LORYNA
Design Mark	
Description of Mark	NONE
Goods/Services	Class 005. First use: First Use: 2011/05/04 First Use In Commerce: 2011/05/04 Oral contraceptives

Attachments	77850568#TMSN.jpeg ( 1 page )( bytes ) Notice of Opposition LORSIMA.pdf ( 9 pages )(53040 bytes )
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### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/s/ James D. Weinberger
Name	James D. Weinberger
Date	01/30/2012

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

NOVARTIS AG,

Opposer,

v.

LEO PHARMA A/S,

Applicant.

**NOTICE OF OPPOSITION**

Novartis AG (“Opposer”), a corporation organized and existing according to the laws of Switzerland, located and doing business at CH-4002, Basel, Switzerland, believes that it will be damaged by the issuance of a registration for the mark LORSIMA, applied for in Application Serial No. 85/261,150 for “pharmaceutical preparations for the treatment of skin disorders, skin infections and skin cancers; anticoagulants” in International Class 5, and therefore opposes the same. As grounds for the opposition, Opposer, by its attorneys Fross Zelnick Lehrman & Zissu, P.C., alleges as follows:

1. Opposer and its predecessors-in-interest have for many years been engaged in the manufacture, distribution, advertising and sale, throughout the United States, of pharmaceuticals and other products in the medical and healthcare fields.

2. On October 16, 2009, Opposer filed U.S. Trademark Application No. 77/850,568 for use of the mark LORYNA in connection with “oral contraceptives” in International Class 5, based on an intent to use the mark under section 1(b) of the Lanham Act, 15 U.S.C. § 1051(b).

3. A printout from the United States Patent and Trademark Office’s online database reflecting the current status and title of the above application is attached as **Exhibit A**.

4. In May 2011, Opposer's prescription oral contraceptive under the mark LORYNA was approved by the Food and Drug Administration. Shortly thereafter, Opposer began manufacturing, distributing, advertising and selling its LORYNA product throughout the United States.

5. Accordingly, on January 25, 2012 Opposer filed an Allegation of Use for its Application No. 77/850,568. *See Exhibit A.*

6. Opposer has made a substantial investment in its product bearing the LORYNA mark, and through sales, advertising, and promotional efforts, said mark has become of substantial importance and value to Opposer.

7. On information and belief, Leo Pharma A/S ("Applicant") is a company organized and existing according to the laws of Denmark, located and doing business at 55 DK-2750, Ballerup, Denmark.

8. On March 8, 2011, Applicant filed Application Serial No. 85/261,150 to register the mark LORSIMA ("Applicant's Mark") for "pharmaceutical preparations for the treatment of skin disorders, skin infections and skin cancers; anticoagulants" in International Class 5, based on an intent to use the mark under section 1(b) of the Lanham Act, 15 U.S.C. § 1051(b) (the "Application").

9. The Application filing date is over a year after Opposer applied to register its LORYNA mark in International Class 5.

10. Upon information and belief, Applicant had actual knowledge of Opposer's prior rights to and interest in the LORYNA mark in connection with pharmaceuticals in International Class 5 before seeking to register Applicant's Mark for closely-related goods. At a minimum, as a matter of law Applicant was on constructive notice of Opposer's rights in its LORYNA mark for pharmaceuticals based on Opposer's application to register such mark.

11. The registration of Applicant's Mark for "pharmaceutical preparations for the treatment of skin disorders, skin infections and skin cancers; anticoagulants" would be inconsistent with Opposer's prior rights in its LORYNA mark and would destroy Opposer's investment and goodwill in its LORYNA mark.

12. Opposer's LORYNA mark is exclusively associated with Opposer and has been used continuously by Opposer since a date prior to any date on which Applicant can rely.

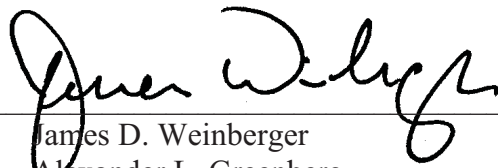
13. Applicant's Mark as applied for in the Application so resembles Opposer's LORYNA mark in sight, sound and commercial impression as to be likely, when used on or in connection with Applicant's products, to cause confusion and mistake and to deceive the trade and public into believing that Applicant's products are from the same source as Opposer's products, emanate from Opposer, or are otherwise authorized, sponsored, or licensed by Opposer, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

14. By reason of the foregoing, Opposer is likely to be harmed by registration of the Application for Applicant's Mark.

WHEREFORE, it is respectfully requested that this opposition be sustained and that the registration sought by Applicant in Application Serial No. 85/261,150 be denied.

Dated: New York, New York  
January 30, 2012

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By:   
James D. Weinberger  
Alexander L. Greenberg  
866 United Nations Plaza  
New York, New York 10017  
(212) 813-5900

*Attorneys for Opposer*

# EXHIBIT A

Thank you for your request. Here are the latest results from the [TARR web server](#).

This page was generated by the TARR system on 2012-01-30 08:41:19 ET

Serial Number: 77850568 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: (NOT AVAILABLE)

Mark

LORYNA

(words only): LORYNA

Standard Character claim: Yes

Current Status: A Statement of Use has been forwarded to the examining attorney for examination.

Date of Status: 2012-01-26

Filing Date: 2009-10-16

Filed as TEAS Plus Application: Yes

Currently TEAS Plus Application: Yes

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 104

Attorney Assigned:  
MARTIN CHRISTINE C

Current Location: L40 -TMEG Law Office 104

Date In Location: 2012-01-26

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**LAST APPLICANT(S)/OWNER(S) OF RECORD**

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1. [Novartis AG](#)

**Address:**

[Novartis AG](#)

[CH - 4002](#)

[Basel](#)

[Switzerland](#)

**Legal Entity Type:** [Corporation](#)

**State or Country of Incorporation:** [Switzerland](#)

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**GOODS AND/OR SERVICES**

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**International Class:** [005](#)

**Class Status:** [Active](#)

[Oral contraceptives](#)

**Basis:** [1\(b\)](#)

**First Use Date:** [2011-05-04](#)

**First Use in Commerce Date:** [2011-05-04](#)

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**ADDITIONAL INFORMATION**

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**Translation:** [The wording "LORYNA" has no meaning in a foreign language.](#)

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**MADRID PROTOCOL INFORMATION**

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[\(NOT AVAILABLE\)](#)

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**PROSECUTION HISTORY**

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**NOTE:** To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

[2012-01-26 - Statement Of Use Processing Complete](#)

[2012-01-25 - Use Amendment Filed](#)

[2012-01-25 - TEAS Statement of Use Received](#)

[2011-09-27 - Notice Of Approval Of Extension Request E-Mailed](#)

[2011-09-26 - Extension 3 granted](#)



2011-09-22 - Extension 3 filed

2011-09-22 - TEAS Extension Received

2011-04-29 - Notice Of Approval Of Extension Request E-Mailed

2011-04-28 - Extension 2 granted

2011-04-26 - Extension 2 filed

2011-04-27 - Case Assigned To Intent To Use Paralegal

2011-04-26 - TEAS Extension Received

2010-10-27 - Notice Of Approval Of Extension Request E-Mailed

2010-10-25 - Extension 1 granted

2010-10-25 - Extension 1 filed

2010-10-25 - TEAS Extension Received

2010-04-27 - NOA Mailed - SOU Required From Applicant

2010-02-02 - Official Gazette Publication Confirmation E-Mailed

2010-02-02 - Published for opposition

2009-12-29 - Law Office Publication Review Completed

2009-12-29 - Assigned To LIE

2009-12-09 - Approved For Pub - Principal Register

2009-12-07 - Examiner's Amendment Entered

2009-12-07 - Notification Of Examiners Amendment E-Mailed

2009-12-07 - Examiners amendment e-mailed

2009-12-07 - Examiners Amendment -Written

2009-12-05 - Assigned To Examiner

2009-10-21 - New Application Office Supplied Data Entered In Tram

2009-10-20 - New Application Entered In Tram

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**ATTORNEY/CORRESPONDENT INFORMATION**

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**Attorney of Record**

Maury M. Tepper, III

**Correspondent**

MAURY M. TEPPER, III

TEPPER & EYSTER, PLLC

3724 BENSON DR

RALEIGH, NC 27609-7321

Phone Number: 919-861-8903

Fax Number: 919-861-8913

**Domestic Representative**

Novartis Pharmaceuticals Corporation

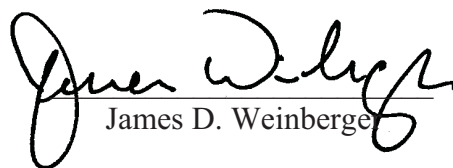
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## CERTIFICATE OF SERVICE

The undersigned, counsel for Opposer Novartis AG, hereby certifies that a true and correct copy of the attached **NOTICE OF OPPOSITION** was served via first class mail, postage prepaid, upon Applicant and its correspondent of record on this 30th day of January, 2012, as follows:

Leo Pharma A/S  
Industriparken 55 DK-2750  
Ballerup, Denmark

Kathryn M. Eyster, Esq.  
Tepper & Eyster, PLLC,  
3724 Benson Dr., Raleigh, NC 27609



James D. Weinberger